

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MICHAEL L. ROLF, SR.,)	
)	
Plaintiff,)	
)	
v.)	No. 10-0562-CV-W-FJG
)	
THE COCA-COLA COMPANY,)	
)	
Defendant.)	

ORDER

Pending before the Court is defendant's Motion to Dismiss (Doc. No. 8).

I. BACKGROUND

Plaintiff Rolf filed his motion to proceed *in forma pauperis* in the instant suit against the Coca-Cola Company on June 4, 2010. On July 7, 2010, plaintiff's motion to proceed *in forma pauperis* was granted (see Doc. No. 4), and his complaint was filed on ECF on July 9, 2010 (Doc. No. 6).

Plaintiff alleges he purchased several cans of Coca-Cola. Plaintiff alleges he suffered personal injury after he consumed the Coca-Cola, and that the Coca-Cola was filled with illegal narcotics, illicit drugs, and (possibly) bodily fluids. Plaintiff seeks one trillion dollars in damages for the "awfull [sic] addiction the sodas have left me with." See Doc. No. 6. In his attachment to his complaint (Doc. No. 6, Ex. 1), plaintiff further indicates that the sodas caused him to get ill and high. Further, in this attachment, plaintiff states:

These corporations are not above the law & they should be held accountable for the mass murder and addiction they have afflicted on the United States of America. What they have done is worse than the September 11th attacks. The people they have made unwilling addicts & filled with disease are in the millions not thousands. Their crimes are punishable by life in federal prison & death under the law.

As noted by defendant, the pending lawsuit is not the only lawsuit filed by plaintiff against a food and beverage manufacturer. Instead, plaintiff has filed the following similar lawsuits in the past year:

Rolf v. Kraft Foods, Case No. 09-0270-FJG (alleging that he purchased Chips Ahoy cookies that “were manufactured with drugs in them. I consumed a package that got me high, caused headaches, I wake up in cold sweats, uncontrollable shakes inside.” Summary judgment was granted in defendant’s favor on March 30, 2010).

Rolf v. McKee Foods Corporation, Case No. 10-0005-DGK (alleging that he “purchased some Little Debbie (Iced Honey Buns) . . . [and] after I consumed one of the honey buns out of the box, I became high as a result.” Plaintiff alleges that defendant “manufactured these honey buns with the drug in them,” and that this amounts to “domestic terrorism [sic].” Defendant’s motion for summary judgment was granted on September 2, 2010).

Rolf v. Mars, Incorporated, Case No. 10-0043-DGK (alleging that defendant manufactured Twix and M&Ms with “elicit [sic] drugs and foreign elements in the ingredients of their product[s].” In a separately-filed “notice of filing,” plaintiff states that he “definitely felt the high from the illegal controlled substances in the ingredients of their products. . . . I have been left with a feeling of extreme [sic] sweats, cravings to have some more, a feeling like I need a cigarette, terrible shakes and trembles, this addiction is something beyond words to explain [sic].” Defendant’s motion to dismiss was granted on September 2, 2010).

Rolf v. ConAgra Foods (Libby’s), Case No. 10-0203-GAF (alleging that Libby’s Vienna Sausages were manufactured with illegal/controlled substances in them and possibly infectious body fluids).

Defendant has moved to dismiss plaintiff’s lawsuit as (1) frivolous under 28 U.S.C. § 1915; and (2) implausible under Fed. R. Civ. P. 12(b)(6), as amplified by Twombly and Iqbal.

II. DISCUSSION

Pursuant to 28 U.S.C. § 1915, this Court may authorize the commencement or prosecution of any suit without prepayment of fees when an applicant files an affidavit

stating that he is unable to pay the costs of the lawsuit, and the Court determines that the lawsuit is not frivolous or malicious. Thus, even if plaintiff is sufficiently impoverished under this statute, the Court “shall dismiss” cases filed in forma pauperis “at any time if the court determines that . . . the action . . . (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). Section 1915 grants district judges “the unusual power to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless.” Neitzke v. Williams, 490 U.S. 319, 325. The Court “may consult its own records as an aid in determining whether the complaint is frivolous.” Van Meter v. Morgan, 518 F.2d 366, 368 (8th Cir. 1975).

The Court concurs with District Judge Kays’ well-reasoned order in Case No. 10-CV-00043-DGK, Doc. No. 27, entered on September 2, 2010. Although plaintiff could conceivably state a claim against a food manufacturer for receiving a contaminated food product on one occasion (or, at the very least, on very few occasions), the coincidence of plaintiff receiving purportedly-contaminated food products from the manufacturers of Twix, M&M’s, Honeybuns, Vienna Sausages, Chips Ahoy, and Coca-Cola within the past year strains credulity. Plaintiff’s conduct in discovery in other matters (see Case No. 10-cv-0005-DGK and Case No. 09-cv-0270-FJG), and his repeated filing of frivolous motions and pleadings (see generally Case No. 09-cv-0270-FJG Order, Doc. No. 23; Case No. 09-cv-0203-GAF, Order Doc. No. 15),¹ convince the Court that this is exactly the kind of case at

¹For instance, on August 26, 2010, plaintiff filed a motion for appointment of counsel where he refers to the “food ‘drug cartels’ attorneys,” states that the food manufacturers are “utilizing the bias, & prejudices of the courts to [run over the very fabric on which this nation was built],” calls the distribution of food an “American

which section 1915(e)(2)(B) is aimed. Accordingly, Defendant's Motion to Dismiss (Doc. No. 8) is **GRANTED**.

Plaintiff's pending motions for appointment of counsel (Doc. Nos. 12 and 14) will be **DENIED AS MOOT**.

IT IS FURTHER ORDERED THAT the Clerk of the Court is directed to send a copy of this Order to plaintiff by regular United States mail and by certified mail, return receipt requested, to the following address: Post Office Box 413709, Kansas City, Missouri 64141-3709.

IT IS SO ORDERED.

Date: September 13, 2010
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge

Holocaust," calls law enforcement and the FDA the "SS," and indicates that the Patriot Act and RICO were "designed to give them [apparently, the various defendants or their owners] death." See Doc. No. 14 (indicating, additionally, that "The Judges are not even appointing the plaintiffs [sic] attorneys in these cases. That's a disgrace [sic] to the bench itself, taking bribes & payoffs in exchange for country's health."